



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

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February 13, 2023

VIA ECF

Hon. Jesse M. Furman
United States District Court
Southern District of New York
40 Centre Street, Room 2203
New York, New York 10007

Re: *State of New York v. Arm or Ally, LLC, et al.*, No. 22-cv-06124

Dear Judge Furman:

On behalf of Plaintiff the People of the State of New York (the “State”), we write pursuant to this Court’s Order, dated February 6, 2023, ECF No. 121, directing that any opposition to counsel for Indie Guns, LLC, ’s (“Indie Guns”) motion to withdraw, ECF No. 119, be filed by February 13, 2023. While the State does not oppose Mr. Waugh’s and Ms. Norberg’s motion to withdraw, the State does note that although Mr. Waugh advised the State in mid-December 2022 that he intended to withdraw because of “irreconcilable differences,” counsel delayed filing their motion for over a month and a half. The decision to finally move to withdraw appears to have been prompted by an email that counsel for the State sent less than 48 hours prior requesting a meet-and-confer about the State’s anticipated motion for leave to propound discovery to address Indie Guns’s purported spoliation of discovery that is subject to disclosure pursuant to Rule 26 of the Federal Rules of Civil Procedure.

As set forth more fully in the State’s letter motion dated February 8, 2023, ECF No. 126, Lawrence Destefano, the principal member of Indie Guns, has made repeated public statements that Indie Guns is destroying its customer sales data and changing its business practices to avoid the creation of obtainable records while continuing to sell its illegal products “off the books,” brazen conduct of which the State only recently became aware. Undoubtedly, Indie Guns’s purported spoliation that has been occurring since at least October of 2022¹ has likely contributed to the irretrievable breakdown of the attorney-client relationship. Indeed, Mr. Destefano posted a video to Indie Guns’s Instagram account on December 17, 2022, in which he acknowledged that his conduct “doesn’t make any lawyers happy because they call that

¹ In a video that was uploaded on October 3, 2022 to a public Instagram account that is owned and operated by Indie Guns for marketing purposes, Mr. Destefano advised his viewers that “[n]o one, no one is getting any customer data from me and all data that I do have has been wiped clean.” Indie Guns, Instagram, dated October 3, 2022, available at <https://www.instagram.com/reel/CjReSYbgXKk/?hl=en> (last visited February 7, 2023).

‘spoliation of evidence’.” *See* Indie Guns, Instagram, dated December 17, 2023, available at <https://www.instagram.com/p/CmSCoQHgj8q/> (last visited February 7, 2023).

The State is concerned that Counsel’s motion to withdraw will frustrate the State’s ability to propound its requested urgent discovery, and asks that the Court consider this development in reaching its decision on the pertinent motion.

We thank the Court for its time and consideration.

Respectfully submitted,

/s/ Abigail Katowitz

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Cc: All counsel of record via ECF